

ASSEMBLY, No. 5796

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JUNE 1, 2021

Sponsored by:

Assemblyman JOHN ARMATO

District 2 (Atlantic)

Assemblyman PEDRO MEJIA

District 32 (Bergen and Hudson)

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District 4 (Camden and Gloucester)

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Assemblywoman Vainieri Huttie

SYNOPSIS

Requires water purveyors and owners of public wastewater collection or treatment systems to consider climate change-related issues in asset management planning.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/1/2021)

1 AN ACT concerning the inclusion of climate change-related
2 considerations in asset management plans adopted by water
3 purveyors and the owners of public wastewater collection or
4 treatment systems, supplementing P.L.2017, c.133 (C.58:31-1 et
5 seq.), and supplementing chapter 10A of Title 58 of the Revised
6 Statutes.

7
8 **BE IT ENACTED** by the Senate and General Assembly of the State
9 of New Jersey:

10
11 1. a. As used in this section:

12 “Department” means the Department of Environmental
13 Protection.

14 “Discharge” means the same as that term is defined by section 3
15 of P.L.1977, c.74 (C.58:10A-3).

16 “Owner” means a municipal or county government, a municipal
17 utilities authority, an investor-owned corporation, a private
18 company, or any other entity that owns a public wastewater
19 collection system or a public wastewater treatment system operating
20 in the State.

21 “Public wastewater collection system” means a wastewater
22 collection system that is regulated by the department pursuant to the
23 “Water Pollution Control Act,” P.L.1977, c.74 (C.58:10A-1 et seq.),
24 and which consists of structures that, operating alone or with other
25 structures, result in the collection and conveyance or transmission
26 of wastewater from private, commercial, institutional, or industrial
27 sources to public wastewater treatment systems for subsequent
28 treatment.

29 “Public wastewater treatment system” means a wastewater
30 treatment system that is regulated by the department pursuant to the
31 “Water Pollution Control Act,” P.L.1977, c.74 (C.58:10A-1 et seq.),
32 and which consists of a structure or structures in which domestic or
33 combined domestic and industrial liquid wastes or sewage are
34 subjected to any process in order to remove or alter the constituent
35 parts thereof so as to render the wastes less offensive or dangerous
36 to the public health, safety, welfare, comfort, property, or
37 environment of any of the inhabitants of the State before the
38 discharge of the resulting effluent either directly or indirectly into
39 any of the waters of the State.

40 “Upset” means the same as that term is defined by section 3 of
41 P.L.1977, c.74 (C.58:10A-3).

42 b. Commencing on the effective date of P.L. , c. (C.)
43 (pending before the Legislature as this bill), the owner of a public
44 wastewater treatment system or public wastewater collection system
45 who prepares or revises an asset management plan pursuant to the
46 department’s best practice guidelines and regulations adopted under
47 the “Water Pollution Control Act,” P.L.1977, c.74 (C.58:10A-1 et
48 seq.), shall ensure that the asset management plan addresses the

1 current and future impacts of, identifies the specific hazards and
2 risks associated with, and includes strategies to prevent and mitigate
3 the hazardous impacts of, climate change on system assets and
4 operability. Each asset management plan shall, at a minimum:

5 (1) identify and analyze the existing and future threats to, and
6 vulnerabilities of, system assets, which threats and vulnerabilities
7 are resulting, or are likely to result, from increasing temperatures,
8 droughts, flooding, hurricanes, sea-level rise, and other natural
9 hazards either caused or worsened by climate change;

10 (2) include a build-out analysis of future asset development and
11 acquisition, and provide an assessment as to whether, how, and to
12 what extent those future asset developments and acquisitions,
13 particularly in riparian or coastal flood zones and other low-lying
14 areas, will be negatively impacted by the threats and vulnerabilities
15 identified pursuant to paragraph (1) of this subsection;

16 (3) identify the critical assets that are necessary to sustain
17 system operability during a natural disaster and the critical assets
18 that are necessary to prevent system upsets and unpermitted
19 discharges; describe the specific climate change-related threats and
20 vulnerabilities, identified pursuant to paragraph (1) of this
21 subsection, that are likely to affect each critical asset, particularly
22 when located in a riparian or coastal flood zone or other low-lying
23 area; and include a plan to ensure that all critical assets are
24 maintained, at all times, in an operational state and in a manner that
25 facilitates the ongoing prevention of system upsets and unpermitted
26 discharges;

27 (4) include an assessment as to whether, how, and to what
28 extent, the threats and vulnerabilities identified pursuant to
29 paragraph (1) of this subsection will increase the costs of asset
30 maintenance, repair, replacement, and operation over time, and
31 whether, how, and to what extent, those threats and vulnerabilities
32 will be likely to impact, over time, the successful implementation of
33 other components of the system's asset management plan;

34 (5) describe the proactive and preventive means, methods,
35 strategies, procedures, and protocols, and the asset acquisition,
36 development, repair, replacement, and design and construction
37 standards, that will be used to: (a) eliminate or reduce the threats
38 and vulnerabilities identified pursuant to paragraph (1) of this
39 subsection; (b) avoid the hazardous impacts of climate change on
40 the system's assets, particularly those assets that are identified as
41 critical, pursuant to paragraph (3) of this subsection, or that are
42 located in a riparian or coastal flood zone or other low-lying area;
43 and (c) prevent system upsets and unpermitted discharges resulting
44 from climate change-related factors; and

45 (6) describe the means, methods, strategies, procedures, and
46 protocols, and the asset acquisition, development, repair,
47 replacement, and design and construction standards, that will be
48 used to promptly and effectively: (a) respond to and mitigate,

1 remediate, or off-set the hazardous effects of climate change on
2 system assets, particularly those assets that are identified as critical,
3 pursuant to paragraph (3) of this subsection, or that are located in a
4 riparian or coastal flood zone or other low-lying area; and (b)
5 redress system upsets and unpermitted discharges resulting from
6 climate change-related factors.

7 c. The climate change-related assessments and strategies that
8 are incorporated into an asset management plan, pursuant to this
9 section, shall be based on the most recent natural hazard projections
10 and best available science from the department.

11
12 2. a. Commencing on the effective date of P.L. ,
13 c. (C.) (pending before the Legislature as this bill), a water
14 purveyor who prepares or revises an asset management plan
15 pursuant to section 7 of P.L.2017, c.133 (C.58:31-7) shall ensure
16 that the asset management plan addresses the current and future
17 impacts of, identifies the specific hazards and risks associated with,
18 and includes strategies to prevent and mitigate the hazardous
19 impacts of, climate change on system assets and operability. Each
20 asset management plan shall, at a minimum:

21 (1) identify and analyze the existing and future threats to, and
22 vulnerabilities of, system assets that are resulting, or are likely to
23 result, from increasing temperatures, droughts, flooding, hurricanes,
24 sea-level rise, and other natural hazards either caused or worsened
25 by climate change;

26 (2) include a build-out analysis of future asset development and
27 acquisition, and provide an assessment as to whether, how, and to
28 what extent those future asset developments and acquisitions,
29 particularly in riparian or coastal flood zones and other low-lying
30 areas, will be negatively impacted by the threats and vulnerabilities
31 identified pursuant to paragraph (1) of this subsection;

32 (3) identify the critical assets that are necessary to sustain
33 system operability during a natural disaster; describe the specific
34 climate change-related threats and vulnerabilities, identified
35 pursuant to paragraph (1) of this subsection, that are likely to affect
36 each critical asset, particularly when located in a riparian or coastal
37 flood zone or other low-lying area; and include a plan to ensure that
38 all critical assets are maintained, at all times, in an operational state;

39 (4) include an assessment as to whether, how, and to what
40 extent, the threats and vulnerabilities identified pursuant to
41 paragraph (1) of this subsection will increase the costs of asset
42 maintenance, repair, replacement, and operation over time, and
43 whether, how, and to what extent, those threats and vulnerabilities
44 will be likely to impact, over time, the successful implementation of
45 other components of the system's asset management plan;

46 (5) describe the proactive and preventive means, methods,
47 strategies, procedures, and protocols, and the asset acquisition,
48 development, repair, replacement, and design and construction

standards, that will be used to eliminate or reduce the threats and vulnerabilities identified pursuant to paragraph (1) of this subsection and avoid the hazardous impacts of climate change on the system's assets, particularly those assets that are identified as critical, pursuant to paragraph (3) of this subsection, or that are located in a riparian or coastal flood zone or other low-lying area; and

(6) describe the means, methods, strategies, procedures, and protocols, and the asset acquisition, development, repair, replacement, and design and construction standards, that will be used to promptly and effectively respond to and mitigate, remediate, or off-set the hazardous effects of climate change on system assets, particularly those assets that are identified as critical, pursuant to paragraph (3) of this subsection, or that are located in a riparian or coastal flood zone or other low-lying area.

b. The climate change-related assessments and strategies that are incorporated into an asset management plan, pursuant to this section, shall be based on the most recent natural hazard projections and best available science from the Department of Environmental Protection.

3. The Commissioner of Environmental Protection shall adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as may be necessary to implement the provisions of this act.

4. This act shall take effect immediately.

STATEMENT

This bill would require any asset management plan (AMP) that is adopted or revised, on or after the date the bill is enacted into law, either by a water purveyor or by the owner of a public wastewater collection or treatment system, to identify the current and future impacts of, and specific hazards and risks associated with, climate change, and establish strategies to prevent and mitigate the hazardous effects of climate change on system assets and operability. The bill would require each AMP, in particular, to:

1) identify and analyze the existing and future threats to, and vulnerabilities of, system assets that are resulting, or are likely to result, from increasing temperatures, droughts, flooding, hurricanes, sea-level rise, and other natural hazards that are either caused or worsened by climate change;

2) include a build-out analysis of future asset development and acquisition, and an assessment as to whether, how, and to what extent those future asset developments and acquisitions, particularly in riparian or coastal flood zones and other low-lying areas, will be

1 negatively impacted by the climate change-related threats and
2 vulnerabilities identified in the AMP;

3 3) identify the critical assets that are necessary to sustain
4 system operability during a natural disaster and, in the case of a
5 wastewater collection or treatment system, that are necessary to
6 prevent system upsets and unpermitted discharges; describe the
7 specific climate change-related threats and vulnerabilities that are
8 likely to affect each critical asset, particularly when located in a
9 riparian or coastal flood zone or other low-lying area; and include a
10 plan to ensure that all critical assets are maintained, at all times, in
11 an operational state and, in the case of a wastewater collection or
12 treatment system, are maintained in a manner that facilitates the
13 ongoing prevention of system upsets and unpermitted discharges;

14 4) include an assessment as to whether, how, and to what
15 extent, identified climate change-related threats and vulnerabilities
16 will increase the costs of asset maintenance, repair, replacement,
17 and operation over time, and whether, how, and to what extent, such
18 threats and vulnerabilities will be likely, over time, to impact the
19 successful implementation of other components of the AMP;

20 5) describe the proactive and preventive means, methods,
21 strategies, procedures, and protocols, and the asset acquisition,
22 development, repair, replacement, and design and building
23 standards that will be used to eliminate or reduce identified climate
24 change-related threats and vulnerabilities, avoid the hazardous
25 impacts of climate change on the system's assets, particularly those
26 that are deemed to be critical or that are located in a riparian or
27 coastal flood zone or other low-lying area, and, in the case of a
28 wastewater collection or treatment system, prevent system upsets
29 and unpermitted discharges; and

30 6) describe the means, methods, strategies, procedures, and
31 protocols, and the asset acquisition, development, repair,
32 replacement, and design and building standards that will be used to
33 promptly and effectively respond to and mitigate, remediate, or off-
34 set the hazardous effects of climate change on system assets,
35 particularly those that are deemed to be critical or that are located in
36 a riparian or coastal flood zone or other low-lying area, and, in the
37 case of a wastewater collection or treatment system, the strategies
38 and standards that will be used to promptly and effectively redress
39 system upsets and unpermitted discharges resulting from climate
40 change-related factors.

41 The bill requires the climate change-related components of each
42 system's AMP to be based on the most recent natural hazard
43 projections and best available science from the Department of
44 Environmental Protection.